

# STATE OF NEW YORK

6078

2019-2020 Regular Sessions

## IN SENATE

May 16, 2019

Introduced by Sen. SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil rights law, in relation to the imposition of penalties and remedies in suits brought for the vindication of civil rights or human rights

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Article 9 and sections 90 and 91 of the civil rights law,  
2 as renumbered by chapter 310 of the laws of 1962, are renumbered article  
3 10 and sections 100 and 101 and a new article 9 is added to read as  
4 follows:

### ARTICLE 9

#### PENALTIES AND REMEDIES

##### Section 90. Penalties and remedies.

8 § 90. Penalties and remedies. 1. Every person who, under color of any  
9 statute, ordinance, regulation, custom, or usage, of this state,  
10 subjects, or causes to be subjected, any citizen of this state or other  
11 person within the jurisdiction thereof to the deprivation of any rights,  
12 privileges, or immunities secured by the constitution and laws of this  
13 state, shall be liable to the party injured in an action at law, suit in  
14 equity, or other proper proceeding for redress, except that in any  
15 action brought against a judicial officer for an act or omission taken  
16 in such officer's judicial capacity, injunctive relief shall not be  
17 granted unless a declaratory decree was violated or declaratory relief  
18 was unavailable.

19 2. The supreme court of the state of New York shall have jurisdiction  
20 over all suits brought for the vindication of civil rights as provided  
21 in subdivision one of this section. To the extent that the laws of the  
22 state of New York furnish a remedy for the vindication of such civil

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 rights, such laws shall be applied; but in all cases where such laws are  
2 deficient in the provisions necessary to furnish suitable remedies, the  
3 common law shall be extended to and govern the said courts in the trial  
4 and disposition of the matter.

5 3. (a) In any action or proceeding to enforce this section or the New  
6 York human rights law, the court must award the prevailing party, other  
7 than the United States, a reasonable attorney's fee as part of the  
8 costs, except that in any action brought against a judicial officer for  
9 an act or omission taken in such officer's judicial capacity such offi-  
10 cer shall not be held liable for any costs, including attorney's fees,  
11 unless such action was clearly in excess of such officer's jurisdiction.

12 (b) In awarding an attorney's fee under paragraph (a) of this subdivi-  
13 sion in any action or proceeding to enforce a provision of this article,  
14 the court shall include reasonable expert fees as part of the attorney's  
15 fee.

16 4. This article shall supplement and not displace any jurisdiction  
17 currently existing in the courts or administrative agencies of this  
18 state to the extent that other laws of this state already provide a  
19 remedy for the type of injury referred to in this section.

20 5. In interpreting this section, the courts shall apply the same  
21 fundamental principles already enunciated by the federal courts in  
22 interpreting 42 U.S.C. §§ 1983 and 1988, which are the parallel federal  
23 civil rights laws.

24 § 2. This act shall take effect on the ninetieth day after it shall  
25 have become a law.